

IN THE SENATE OF THE UNITED STATES.

APRIL 26, 1860.—Ordered to be printed.

Mr. BENJAMIN made the following

REPORT.

[To accompany bill S. 382.]

The Committee on Private Land Claims, to whom was referred the bill for the relief of the heirs and legal representatives of Oliver Landry, of the State of Louisiana, have had the same under consideration, and ask leave to make the following report:

That in the year 1787 Oliver Landry petitioned the governor general of the province of Louisiana, to grant him, on the Bayou Tortue, five arpents of land, "more or less, if it could be found," bounded below by René Trahan, and on the other side by Claude Broussard, with the ordinary depth; the quantity to be ascertained by the surveyor of the king. In accordance with the prayer of the petitioner, Estevan Miro, governor of Louisiana, issued on the 2d January, 1788, an order of survey, directed to Carlos Zavan Trudeau, which, accompanied by the petition, was filed in the year 1812, by the said Oliver Landry, in order to establish his claim with the register and receiver of the land office at Opelousas, then acting as commissioners on claims for lands in the western district of the State of Louisiana, under an act of Congress approved 10th March, 1812. But in the notice of the claim filed before the register and receiver, the words "more or less" were omitted, and the claim was favorably reported for "200 superficial arpents, viz: five arpents front by forty deep, situated on the Bayou Tortue, in the county of Attakapas, bounded on one side by land of René Trahan, and on the other by that of Claude Broussard."—(See American State Papers, Public Lands, vol. 3, page 155, case No. 40.)

In consequence of this error upon the part of the claimant, the above stated action of the register and receiver, and its confirmation by Congress in the year 1819, the surveyor general of the United States for Louisiana refused to put the purchasers under Landry in possession of more land than five arpents front, by forty arpents deep, as will appear by the following communication from him to C. J. Cabell, deputy surveyor St. Martinsville, Louisiana:

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, La., March 30, 1855.

SIR: A few days since Governor A. Mouton represented, in person, to this office, that you had surveyed the claim of Oliver Landry, (R. & R. report, No. 40, in T. 10 S., R. 5 E.,) with a front of five arpents only; and having bounded it below by the claim of Joseph Landry, (R. & R. No. 126,) so as to include the buildings upon the tract, had left an intervening space between this claim and that of René Trahan, (A. 1,231,) which you would survey as public land, and return wholly or in part as swamp, enuring to the State. Such a procedure, he alleged, would be injurious to him and others, not only because of its requiring the purchase of lands to which the United States had, in his opinion, no title, but also because of its affording an opportunity to others to enter the lands which he and his co-proprietors have long held in possession; and he, therefore, prayed that instructions should be given to you to survey the whole space between the rear line of René Trehan and the upper side of Joseph Landry, for the claim of Oliver Landry, regardless of the front which it would thus receive. To sustain his wish, he submitted the requette of Landry, dated 27th August, 1787, (copy inclosed,) and the usual order of survey thereupon issued.

The requette described the tract sought as having a front of "five arpents, more or less," "if it could be found," bounded below by René Trahan, and on the other side by "Claude Broussard." But in the notice of the claim, filed before the register and receiver, the saving words "more or less" were omitted, and the front prayed was confined to five arpents; and to this extent only has it been favorably reported, confirmed, and surveyed by you properly.

But in view of the long tenure of Governor Mouton and others, maintained under a succession of *bona fide* sales, dating back many years, made by Oliver Landry and his vendees, in full belief that they were the recognized owners of the whole front between the lines of Trahan and Broussard, I am of opinion that the intervening space between the upper line of Oliver Landry, as surveyed by you, and the back line of René Trahan, should not be subdivided and reported as public lands; but that it should be represented as "claimed by Oliver Landry," without assigning any title to it, as is usual in cases when tracts have long been held as private property, although no confirmation can be found for them. This would leave the claimants of the tract to seek from the legislative branch of the government the recognition of the validity of the claim to which its equity fully entitles it.

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Respectfully, your obedient servant,

W. J. McCULLOH,
Surveyor General of Louisiana.

C. J. CABELL, Esq., *Deputy Surveyor,*
St. Martinsville, Louisiana.

Your committee are of opinion that all the land between the grants of Trahan and Broussard was asked from and granted by the Spanish government, and that the confirmation by the United States was valid in law for the whole tract contained between these two boundaries, notwithstanding the statement in the confirmation that this tract was only five arpents in front and contained only two hundred superficial arpents. The principle that statements of quantity in the description of lands must yield to designation of fixed limits, would clearly apply to the case in question; but as there seems to be a dispute about the rights of the petitioners in the office of the public surveyors, your committee deem it not unreasonable to quiet the title by legislation instead of driving the petitioners to the necessity of litigation in support of their rights.

